

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

EQUITY TRADING PORTFOLIO LIMITED,  
EQUITY TRADING FUND, LTD, and BNP  
PARIBAS ARBITRAGE, SNC

Defendants.

Adv. Pro. No. 10-04457 (SMB)

**DISCOVERY STAY STIPULATION AND ORDER**

Plaintiff Irving H. Picard (the “Trustee”), as trustee of the substantively consolidated liquidation proceeding of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.*, and the chapter 7 estate of Bernard L. Madoff, and Equity Trading Portfolio Limited, Equity Trading Fund Ltd. (together, the “Equity Trading Defendants”), and BNP Paribas Arbitrage SNC, (“BNPP Arbitrage,” together with the

Equity Trading Defendants, the “Defendants” and, together with the Trustee, the “Parties”), by and through their respective undersigned counsel, state as follows:

**WHEREAS**, on November 30, 2010, the Trustee commenced adversary proceeding no. 10-04457 (SMB) (the “Action”) against the Defendants to recover an alleged preference and fraudulent transfer purportedly received, either as an initial or subsequent transferee, from BLMIS;

**WHEREAS**, on December 20, 2019, the Trustee filed unopposed petitions for permission to appeal pursuant to 28 U.S.C. § 158(d)(2)(A), which respectively sought (i) a direct appeal to the Second Circuit of the Bankruptcy Court’s memorandum decision denying the Trustee’s motion for leave to file amended complaint in one adversary proceeding, *Picard v. Citibank, N.A.*, 608 B.R. 181 (Bankr. S.D.N.Y. 2019), and (ii) a direct appeal to the Second Circuit of the Bankruptcy Court’s memorandum decision granting, in part, the motion to dismiss the Trustee’s amended complaint in another adversary proceeding, *Picard v. Legacy Capital Ltd.*, 548 B.R. 13 (Bankr. S.D.N.Y. 2013) (together, the “Appeals”);

**WHEREAS**, on April 23, 2020, the Second Circuit granted the Trustee’s petitions for the Appeals, *In re BLMIS LLC*, Case No. 19-4282, ECF No. 29; *In re BLMIS LLC*, Case No 4283, ECF No. 25;

**WHEREAS**, the Parties expect the Appeals will seek review of, *inter alia*, an order of the United States District Court for the Southern District of New York, *SIPC v. BLMIS*, 516 B.R. 18, 21-24 (S.D.N.Y. 2014), which determined the standard the Trustee must meet in order to plead a lack of good faith under either 11 U.S.C. § 548(c) or 11 U.S.C. § 550(b) (the “Good Faith Issue”);

**WHEREAS**, the Parties agree that a resolution of the Good Faith Issue by the Second Circuit could materially affect, *inter alia*, the scope of the Trustee's claims in the Action and/or the scope of any discovery in the Action; and

**WHEREAS**, the Parties further agree that a stay of the Action pending resolution of the Good Faith Issue by the Second Circuit is in the interest of all parties and would promote judicial economy and prevent potentially duplicative proceedings;

**IT IS HEREBY STIPULATED AND AGREED**, by and between the Parties, that the Action be stayed until the issuance of orders from the Second Circuit in both Appeals of the Good Faith Issue. Nothing herein shall be deemed to affect any Party's rights and defenses, all of which are expressly reserved.

Dated: June 1, 2020  
New York, New York

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*Attorneys for Equity Trading Defendants.*

SO ORDERED.

/s/ STUART M. BERNSTEIN

HON. STUART M. BERNSTEIN

UNITED STATES BANKRUPTCY JUDGE

Dated: **June 1<sup>st</sup>, 2020**